



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

ELP

Docket No. 3369-00

27 October 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his record be corrected to show a more favorable discharge than the general discharge issued on 1 April 1952.

2. The Board, consisting of Messrs. Pfeiffer, Silberman, and Neuschafer reviewed Petitioner's allegations of error and injustice on 25 October 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 2 April 1948 for three years at age 18. The record reflects that he was advanced to PFC (E-2) and served for more than 20 months without

incident. However, during the two month period from December 1949 to January 1950 he received a nonjudicial punishment (NJP) and was convicted by a summary court-martial. His offenses consisted of engaging in an affray and unauthorized use of a government vehicle.

d. On 2 April 1951, Petitioner's enlistment was involuntarily extended for one year. He was wounded twice in June 1951 while serving in Korea and is authorized the Purple Heart Medal with one bronze star. He continued to serve without further incident and was advanced to CPL (E-4).

e. On 16 February 1952 Petitioner was convicted by a second summary court-martial of a five hour period of unauthorized absence, failure to obey a lawful regulation, and being drunk on station. He was sentenced to a forfeiture of \$34 and one month of restriction. He served without further incident and received a general discharge on 1 April 1952.

f. Character of service is based, in part, on conduct and proficiency averages which are computed from marks assigned during periodic evaluations. Petitioner's conduct and proficiency averages shown in his record were 3.8 and 6.0, respectively. A recomputation of the conduct marks shown in the record resulted in an average of 4.0. A minimum average mark of 4.0 in conduct was required for a fully honorable characterization at the time of Petitioner's discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner served during the Korean conflict and was twice wounded in combat. It appears to the Board that the discharge authority may have determined that an NJP and two summary court-martial convictions did not warrant a fully honorable discharge. However, it appears to the Board he had a sufficient average in conduct to warrant a fully honorable discharge. Even if his conduct average was substandard, the Board notes his misconduct was relatively minor and believes that his combat service for which he was twice wounded outweighs the misconduct of record. The Board concludes that to continue to stigmatize his service as under honorable conditions serves no useful purpose and it would be appropriate and just to recharacterize his service to honorable.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an honorable discharge by reason of expiration of enlistment on 1 April 1952 vice the general discharge actually issued on that date.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director